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REGULATION III OF 1925.

THE MYSORE PATENTS AND DESIGNS REGULATION, 1925.

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THE SCHEDULE—FEES.

REGULATION III OF 1925.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE SEVENTH DAY OF JULY 1925.)

A REGULATION TO AMEND THE LAW RELATING TO THE PROTECTION OF PATENTS AND DESIGNS.

WHEREAS it is expedient to amend the law relating to the protection of patents and designs; His Highness the Maharaja is pleased to enact as follows:—

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Patents and Designs Regulation, 1925.

(2) It extends to the whole of Mysore, and

(3) It shall come into force after the expiry of three months from the date of the passing thereof.

Definitions

2. In this Regulation unless there is anything repugnant in the subject or context:—

(1) "article" means (as respects designs) any article of manufacture and any substance, artificial or natural, or partly artificial and partly natural:

(2) "Controller" means the Controller of Patents and Designs appointed under this Regulation:

(3) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered:

(4) "design" means any design applicable to any article, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two, or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical or chemical, separate or combined, but does not include any trade or property mark as defined in sections 478 and 479 of the Indian Penal Code:

(5) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure, 1911:

(6) "invention" means any manner of new manufacture and includes an improvement and an alleged invention:

(7) "legal representative" means a person who in law represents the estate of a deceased person:

(8) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(9) "patent" means a patent granted under the provisions of this Regulation:

(10) "patentee" means the person for the time being entitled to the benefit of a patent:

(11) "prescribed" includes prescribed by rules under this Regulation, and:

(12) "proprietor of a new and original design",—

(*a*) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed; and

(*b*) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired; and

(*c*) in any other case, means the author of the design; and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

PART I.

PATENTS.

Application for and Grant of Patent.

Application

3. (1) An application for a patent may be made by any person whether he is a subject of His Highness the Maharaja of Mysore or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form and must be left at the Patent Office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by a specification and by the prescribed fee.

(4) Where the true and first inventor is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

Specification

4. (1) The specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(2) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the application, and such drawings shall be deemed to form part of the specification.

(3) The specification must commence with the title, and must end with a distinct statement of the invention claimed.

(4) If in any particular case the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

Proceedings upon application.

5. (1) The Controller shall examine every application, and if he considers that—

(*a*) the nature of the invention is not fairly described, or

(*b*) the application, specification and drawings have not been prepared in the prescribed manner or relate to more than one invention, or

(*c*) the title does not sufficiently indicate the subject-matter of the invention, or

(*d*) the statement of claim does not sufficiently define the invention, or

(*e*) the invention as described and claimed is *prima facie* not a new manufacture or improvement;

he may refuse to accept the application or require that the application, specification or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the controller so directs, bear date as from the time when the requirement is complied with.

(2) Where the Controller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the Government.

(3) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Government or any officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(4) Unless an application is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void :

Provided that where an application is made for an extension of time for the acceptance of an application, the Controller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding three months.

Advertisement on acceptance of application.

6. On the acceptance of an application the Controller shall give notice thereof to the applicant and shall advertise the acceptance ; and the application and specification with the drawings (if any) shall be open to public inspection.

Use of invention on acceptance of application.

7. Where an application for a patent in respect of an invention has been accepted, any use or publication of the invention during the period between the date of application and the date of sealing such patent shall not prejudice the patent to be granted for the invention :

Provided that an applicant shall not be entitled to institute any proceedings for infringement unless and until a patent for the invention has been granted to him.

Inquiry before sealing patent.

8. After acceptance of an application and before sealing a patent the Controller shall, if he thinks it advisable or is directed by the Government so to do, refer the specification for inquiry and report to any person whom he thinks fit.

Opposition to grant of patent.

9. (1) Any person may, on payment of the prescribed fee, at any time within three months from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds, namely :—

(*a*) that the applicant obtained the invention from him, or from a person of whom he is the legal representative or assign ; or

(*b*) that the invention has been claimed in any specification filed in Mysore which is or will be of prior date to the patent, the grant of which is opposed ; or

(*c*) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the specification ; or

(*d*) that the invention has been publicly used in any part of Mysore or has been made publicly known in any part of Mysore ;

but on no other ground.

(2) Where such notice is given, the Controller shall give notice of the opposition to the applicant, and shall, on the expiration of those three months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case.

(3) The decision of the Controller shall be subject to appeal to the Government.

Grant and sealing of patent.

10. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted, subject to such conditions (if any) as the Government thinks expedient, to the applicant, or in the case of a joint application to the applicants jointly, and the Controller shall cause the patent to be sealed with the seal of the Patent Office.

(2) A patent shall be sealed as soon as may be, and not after the expiration of eighteen months from the date of application :

Provided that,—

(*a*) where the Controller has allowed an extension of the time within which an application may be accepted, a further extension of four months after the said eighteen months shall be allowed for the sealing of the patent ;

(*b*) where the sealing is delayed by an appeal to the Government or by a reference under section 8, or by opposition to the grant of the patent, the patent may be sealed at such time as the Controller may direct ;

(c) where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death ;

(d) where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within the period allowed by this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.

Date of patent.

11. Except as otherwise expressly provided by this Regulation, a patent shall be dated and sealed as of the date of the application :

Provided that no proceeding shall be taken in respect of an infringement committed before the publication of the specification.

Effect, extent and form of patent

12. (1) A patent sealed with the seal of the Patent Office shall, subject to the other provisions of this Regulation, confer on the patentee the exclusive privilege of making, selling and using the invention throughout Mysore and of authorizing others so to do.

(2) Every patent may be in the prescribed form and shall be granted for one invention only, but the specification may contain more than one claim ; and it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

Fraudulent applications for patents.

13. (1) A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him, or by protection obtained thereon or by any use or publication of the invention subsequent to that fraudulent application during the period of protection.

(2) Where a patent has been revoked on the ground of fraud or on any other ground, the Controller may on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Regulation, grant to him a patent in lieu of and bearing the same date as the patent so revoked, for any invention comprised in the revoked patent to which he was entitled :

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

Term of patent.

Term of patent.

14. (1) The term limited in every patent for the duration thereof shall, save as otherwise expressly provid d by this Regulation, be fourteen years from its date.

(2) A patent shall, notwithstanding anything therein or in this Regulation, cease if the patentee fails to pay the prescribed fees within the prescribed times :

Provided that the Controller, upon the application of the patentee, shall, on receipt of such additional fee as may be prescribed, enlarge the time to such an extent as may be applied for but not exceeding three months

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time and before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

Extension of term of patent.

15. (1) A patentee may, after advertising in the prescribed manner his intention to do so, present a petition to the Government praying that his patent may be extended for a further term; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee.

(2) Any person may give notice to the Controller of objection to the extension.

(3) Where a petition is presented under sub-section (1), the Government may, as it thinks fit, dispose of the petition or refer it to the Chief Court for decision.

(4) If the petition be referred to the Chief Court, then on the hearing of such petition under this section the patentee, and any person who has given notice under sub-section (2) of objection, shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The Court to which the petition is referred shall, in considering its decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(6) If it appears to the Government or to the Chief Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Government or the Chief Court, as the case may be, may by order extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction, conditions and provisions which the Government or the Chief Court, as the case may be, may think fit;

Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Regulation, cease if the inventor fails to pay before the expiration of each year the prescribed fee.

Restoration of lapsed patent.

16. (1) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Controller in the prescribed manner for an order for the restoration of the patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional or unavoidable and that no undue delay has occurred in the making of the application, the Controller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office.

(4) Where such notice is given, the Controller shall notify the applicant thereof.

(5) After the expiration of the prescribed period, the Controller shall hear the case and, subject to an appeal to the Government, issue an order either restoring the patent subject to any conditions and restriction deemed to be advisable or dismissing the application.

Provided that in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased.

Amendment of Application or Specification.

Amendment of application or specification by Controller.

17. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office and accompanied by the prescribed fee, seek leave to amend his application or specification, including drawings forming part thereof, by way of disclaimer, correction or explanation stating the nature of, and the reasons for, the proposed amendment.

(2) If the application for a patent has not been accepted, the Controller shall determine whether and subject to what conditions (if any), the amendment shall be allowed.

(3) In any other case the request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within three months from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(4) Where such a notice is given, the Controller shall give notice of the opposition to the person making the request, and shall hear and decide the case.

(5) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) The decision of the Controller in either case shall be subject to an appeal to the Government.

(7) No amendment shall be allowed that would make the application or specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the application or specification as it stood before amendment.

(8) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all Courts and for all purposes be deemed to form part of the application or specification.

(9) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

Amendment of specification by the Court.

18. In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent, the Court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit;

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the Court notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

Restriction on recovery of damages.

19. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Regulation, no damages shall be given in any suit in respect of the use of the invention before the disclaimer, correction or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Register of Patents.

Register of Patents.

20. (1) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

(2) The register of inventions and address book existing at the commencement of this Regulation shall be incorporated with, and form part of, the register of patents under this Regulation.

(3) The register of patents shall be *prima facie* evidence of any matters by this Regulation directed or authorised to be inserted therein.

(4) Copies of deeds, licenses any any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office, and, unless such copies have been so supplied, such deeds, licenses or other documents shall not be received as evidence of any transaction affecting a patent.

Patent to bind Government.

21. Subject to any conditions which the Government may have imposed, a patent shall have to all intents the like effect as against the Government of Mysore as it has against the subject.

Provided that the officers or authorities administering any department of the service of the Government may, by themselves, their agents, contractors or others, at any time after the application, use the invention for the services of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government between those officers or authorities and the patentee, or, in default of agreement, as may be settled by the Government of Mysore after hearing all parties interested.

Compulsory licenses and Revocation.

Compulsory licenses and revocation

22. (1) Any person interested may present a petition to the Government which shall be left at the Patent Office, together with the prescribed fee, alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory license, or in the alternative, for the revocation of the patent.

(2) The Government shall consider the petition, and if the parties do not come to an arrangement between themselves the Government may, as it thinks fit, either dispose of the petition or refer it to the Chief Court for decision.

(3) The provisions of sub-section (4) of Section 15, prescribing the procedure to be followed in the case of references to the Court under that section, shall apply in the case of references made to the Court under this section.

(4) If the Government is of opinion, or where reference has been made under sub section (2) to the Chief Court that Court finds, that the reasonable requirements of the public with reference to the patented invention have not been satisfied the patentee may be ordered to grant licenses on such terms as the Government or the Chief Court, as the case may be, may think just, or, if the Government or the Chief Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of the licenses, the patent may be revoked by order of the Government or the Chief Court:

Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

(a) If by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in Mysore is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or

(b) If any trade or industry in Mysore is unfairly prejudiced by the conditions attached by the patentee before or after the commencement of this Regulation to the purchase, hire or use of the patented article or to the using or working of the patented process.

(6) An order of the Government or of the Chief Court directing the grant of any license under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and made between the parties to the proceeding.

Revocation of patents worked outside Mysore.

23. (1) At any time not less than four years after the date of a patent granted under this Regulation, any person may apply to the Government for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the territories of Mysore.

(2) The Government shall consider the application, and if after inquiry, it is satisfied—

(a) that the allegations contained therein are correct; and

(b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in Mysore; and

(c) that the patentee refuses to grant a license on reasonable terms,

then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in Mysore, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the Government may make an order revoking the patent either—

(i) forthwith; or

(ii) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to the satisfaction that the patented article or process is manufactured or carried on within Mysore to an adequate extent.

(3) No order revoking a patent shall be made under the last sub-section which is at variance with any treaty convection arrangement or engagement with any foreign country or British possession.

(4) The Government may, on the application of the patentee, extend the time limited in any order made under sub-section (2) clause (ii), for such period not extending two years as he may specify in a subsequent order or revoke any order made under sub-sectian (2), clause (ii), or any subsequent order if sufficient cause is in his opinion shown by the patentee.

Power of Controller to revoke surrendered patent.

24. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

Revocation of patent on public grounds.

25. A patent shall be deemed to be revoked if the Government declares, by notification in the Official Gazette, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.

Legal Proceedings.

Petition for revocation of patent.

26. (1) Revocation of a patent in whole or in part may be obtained on petition to the Chief Court on all or any of the following grounds, namely:—

(a) that any invention included in the statement of claim is of no utility;

(b) that any invention included in the statement of claim was not, at the date of the application for a patent, a new invention within the meaning of this Regulation;

(c) That the applicant was not the true and first inventor thereof or the assign or legal representative of such inventor thereof;

(d) that the original or any amended application or specification does not fulfil the requirements of this Regulation;

(e) that the applicant has knowingly or fraudulently included in the application for a patent or in the original or any amended specification, as his invention, something which was not new or whereof he was neither the inventor nor the assign nor the legal representative of such inventor;

(*f*) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent misstatement;

(*g*) that a part of the invention or the manner in which a part is to be made and used as described in the original or any amended specification, is not thereby sufficiently described and that this insufficiency was fraudulent or is injurious to the public.

(2) A petition for revocation of a patent may be presented—

(*a*) by the Government Advocate or any person authorised by him; or

(*b*) by any person alleging—

(i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims; or

(ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee; or

(iii) that he, or any person under or through whom he claims an interest in any trade, business or manufacture, had publicly manufactured, used or sold, within Mysore, before the date of the patent, anything claimed by the patentee as his invention.

(3) The Chief Court may, irrespective of any provisions of the Code of Civil Procedure, 1911, in this behalf, require any person, other than the Government Advocate or any person authorised by him, applying for the revocation of a patent to give security for the payment of all costs incurred or likely to be incurred by any person appearing to oppose the petition.

Notice of proceedings to persons interested.

27. (1) Notice of any petition for revocation of a patent under section 26 shall be served on all persons appearing from the register to be proprietors of that patent or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post in a registered letter directed to the person and place for the time being stated in the register.

Framing issue for trial before other Courts.

28. (1) The Chief Court may, if it thinks fit, direct an issue for the trial, before itself, or any District Court, of any question arising upon a petition to itself under section 26, and the issue shall be tried accordingly.

(2) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the Chief Court, and the Chief Court may thereupon act upon the finding of the District Court, or dispose of the petition upon the evidence recorded, or direct a new trial, as the justice of the case may require.

Suits for infringement of patents.

29. (1) A patentee may institute a suit in a District Court having jurisdiction to try the suit against any person who, during the continuance of a patent acquired by him under this Regulation in respect of an invention makes, sells or uses the invention without his license, or counterfeits it, or imitates it.

(2) Every ground on which a patent may be revoked under this Regulation shall be available by way of defence to a suit for infringement.

Exemption of innocent infringer from liability for damages.

30. A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Regulation from the defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and making of an article with the word "patent", "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall

not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:

Provided that nothing in this section shall affect any proceedings for an injunction.

Order for inspection etc., in suit.

31. In a suit for infringement of a patent, the Court may, on the application of either party, make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon, as the Court may see fit.

Certificate of validity questioned and costs thereon.

32. In a suit for infringement of a patent, the Court may certify that the validity of the patent came in question, and if the Court so certifies, then in any subsequent suit in that Court for infringement of the same patent the plaintiff, on obtaining a final order or judgment in his favour, shall, unless the Court trying the suit otherwise directs, have his full costs, charges and expenses of and incidental to the said suit properly incurred.

Transmission of decrees and orders to the Controller.

33. A Court making a decree in a suit under section 29 or an order on a petition under section 26 shall send a copy of the decree or order, as the case may be, to the Controller, who shall cause an entry thereof and reference thereto to be made in the register of patents.

Hearing with assessor.

34. (1) In a suit or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall, on the request of either of the parties to the proceedings, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance.

(2) A Court exercising appellate jurisdiction in respect of such suit or proceedings may, if it thinks fit, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall in every case be determined by the Court and be paid by it as part of the expenses of the execution of this Regulation.

Remedy in case of groundless threats of legal proceedings.

35. Where any person claiming to be the patentee of an invention, by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats:—

Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes a suit for infringement of his patent.

Miscellaneous.

Grant of patents to two or more persons.

36. Where, after the commencement of this Regulation a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject, to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his legal representatives.

Novelty of invention.

37. (1) An invention shall be deemed a new invention within the meaning of this Regulation—

(a) if it has not, before the date of the application for a patent thereon, been publicly used in any part of Mysore, or been made publicly known in any part of Mysore, and

(*b*) if the inventor has not by secret or experimental user made direct or indirect profits from his invention in excess of such an amount as the Court or the Government, as the case may be, may in consideration of all the circumstances of the case, deem reasonable.

(2) The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of this Regulation if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or has been communicated to the public in fraud or such inventor or in breach of confidence :

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for a patent.

Loss or destruction of patent.

38. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on payment of the prescribed fee, seal a duplicate thereof.

Provisions as to exhibitions.

39. (1) The exhibition of an invention at an industrial or international exhibition, certified as such by the Government, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application.

Provided that—

(*a*) the exhibitor, before exhibiting the invention, gives the Controller the prescribed notice of his intention to do so ; and

(*b*) the application for a patent is made before or within six months from the date of the opening of the exhibition.

(2) The Government may, by notification in the Official Gazette, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Government, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

PART II.

DESIGNS.

Registration of Designs.

Application for registration of designs.

40. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in the territories of Mysore, register the design under this Part.

(2) The application must be made in the prescribed form and must be left at the Patent Office in the prescribed manner and must be accompanied by the prescribed fee.

(3) The same design may be registered in more than one class, and, in case of doubt, as to the class in which a design ought to be registered, the Controller may decide the question.

(4) The Controller may, if he thinks fit, refuse to register any design presented to him for registration ; but any person aggrieved by any such refusal may appeal to the Government.

(5) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(6) A design when registered shall be registered as of the date of the application for registration.

Registration of designs in new classes.

41. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

(*a*) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or

(*b*) on the ground of the design having been previously published in Mysore by reason only that it has been applied to goods of any class in which it was so previously registered.

Certificate of registration.

42. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered.

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient furnish one or more copies of the certificate.

Register of Designs.

43. (1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs and such other matters as may be prescribed.

(2) The register of designs existing at the commencement of this Regulation shall be incorporated with and form part of the register of designs under this Regulation.

(3) The register of designs shall be *prima facie* evidence of any matters by this Regulation directed or authorised to be entered therein.

Copyright in Registered Designs.

Copyright on Registration.

44. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Regulation, have copyright in the design during five years from the date of registration.

(2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Regulation, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

Requirements before delivery on sale.

45. (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

(*a*) (If exact representations or specimens were not furnished on the application for registration), furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease; and

(*b*) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures, denoting that the design is registered and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

Fees.

Fees.

54. (1) There shall be paid in respect of the patents and the registration of designs, and applications therefor, and in respect of other matters with relation to the patents and designs under this Regulation, such fees as may be prescribed by the Government, so however that the fees prescribed in respect of the instruments and matters mentioned in the schedule shall not exceed those there specified.

(2) A proceeding in respect of which a fee is payable under this Regulation or the rules made thereunder shall be of no effect unless the fee has been paid.

Provisions as to Registers and other Documents in the Patent Office.

Notice of trust not to be entered in registeres.

55. There shall not be entered in any register kept under this Regulation or be receivable by the Controller, any notice of any trust, expressed, implied or constructive.

Inspection of and extracts from registers.

56. Every register kept under this Regulation shall at all convenient times be open to the inspection of the public, subject to the provisions of this Regulation: and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Privilege of reports of Controller.

57. Reports of or to the Controller made under this Regulation shall not in any case be published or be open to public inspection.

Prohibition of publication of specification, drawings, etc., where application abandoned etc.

58. (1) Where an application for a patent has been abandoned or become void, the specifications and drawings (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Regulation, at any time be open to public inspection or be published by the Controller.

(2) Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.

Power for Controller to correct clerical errors.

59. The Controller may, on request in writing accompanied by the prescribed fee,—

(*a*) correct any clerical error in or in connection with an application for a patent or in any patent or any specification;

(*b*) cancel the registration of a design either wholly or in respect of any particular goods in connection with which the design is registered;

(*c*) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register of designs.

Entry of assignments and transmissions in registers.

60. (1) Where a person claims to be entitled by assignment, transmission or other operation of law to a patent, or to the copyright in a registered design, the Controller shall, on request and on proof of title to his satisfaction, register his interest in such patent or design.

(2) Where any person claims to be entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, the Controller shall, on request and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be.

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Regulation and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignments license or dealing.

(2) The Government may, by notification in the Official Gazette apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Government and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

Legal Proceedings.

Piracy of registered design.

50. (1) During the existence of copyright in any design it shall not be lawful for any person—

(*a*) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor or to do anything with a view to enable the design to be so applied ; or,

(*b*) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

(*a*) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt, or

(*b*) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly :

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed one thousand rupees.

(3) When the Court makes a decree in a suit under subsection (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.

Application to designs, of certain provisions of the Regulation as to patents.

51. The provisions of this Regulation with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings, by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

PART III.

GENERAL.

Patent Office and Proceedings thereat.

Patent Office

52. (1) The Government may provide, for the purposes of this Regulation, an office which shall be called, and is in this Regulation referred to as, the Patent Office.

(2) The Patent Office shall be under the immediate control of the Controller of Patents and Designs, who shall act under the superintendence and direction of the Government.

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorized by the Government.

Officers and clerks.

53. The Government may appoint the Controller, and so many officers and clerks, with such designations and duties, as it thinks fit.

(2) Where a representation is made to the Government by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Government may, if, it thinks fit, by rule under this Regulation, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as it thinks fit.

Effect of disclosure on copyright.

46. The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Inspection of registered designs.

47. (1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorized in writing by him, or a person authorized by the Controller or by the Court, and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him, and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof:

Provided that, where registration of a design is refused, on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(2) After the expiration of the copyright in a design, or such shorter period as aforesaid the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

Information as to existence of copyright.

48. On the request of any person furnishing such information as may enable the Controller to indentify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Industrial and International Exhibitions.

Provisions as to exhibitions.

49. (1) The exhibition at an industrial or international exhibition certified as such by the Government or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof:—

Provided that—

(*a*) the exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the Controller the prescribed notice of his intention to do so; and

(*b*) the application for registration is made before or within six months from the date of the opening of the exhibition.

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

Rectification of register by Court.

61. (1) The Chief Court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging or varying such entry as it may think fit.

(2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(3) The prescribed notice of any application under this section shall be given to the Controller, who shall have the right to appear and be heard thereon.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly.

Powers and Duties of Controller.

Powers of Controller in Proceeding under Regulation.

62. Subject to any rules in this behalf, the Controller in any proceedings before him under this Regulation shall have the powers of a Civil Court for the purpose of receiving evidence and administering oaths and enforcing the attendance of witnesses and compelling the production of documents and awarding costs.

Publication of patented inventions.

63. The Controller shall issue periodically a publication of patented inventions containing such information as the Government may direct.

Exercise of discretionary power by Controller.

64. Where any discretionary power is by or under this Regulation given to the Controller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application or of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

Power of Controller to take directions of Government.

65. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Regulation, apply to the Government for directions in the matter.

Refusal to grant patent, etc., in certain cases.

66. The Controller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality.

Appeals to the Government.

67. (1) Where an appeal is declared by this Regulation to lie from the Controller to the Government, the appeal shall be made within two months of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.

(2) In calculating the said period of two months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The Government may, if it thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the Government shall be final.

Evidence, etc.

Certificate of Controller to be evidence

68. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Regulation, or any rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Applications and notices by post.

69. Any application, notice or other document authorized or required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Regulation may be sent by post.

Declaration by infant, lunatic, etc.

70. (1) If any person is, by reason of infancy, lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Regulation, the lawful guardian, committee or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any Court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

(2) An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

Agency.

Subscription and verification of certain documents.

71. The following documents, namely,—

(1) applications for a patent,
(2) notices of opposition,
(3) applications for extension of term of a patent,
(4) applications for the restoration of lapsed patents,
(5) applications for leave to amend,
(6) applications for compulsory license or revocation, and
(7) notices of surrenders of patent,

shall be signed and verified, in the manner prescribed, by the person making such applications or giving such notices:

Provided that, if such person is absent from Mysore, they may be signed and verified on his behalf by an agent resident in Mysore, authorized by him in writing in that behalf.

Agency.

72. (1) All other applications and communications to the Controller under this Regulation may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent authorized to the satisfaction of the Controller.

(2) The Controller may, if he sees fit, require—

(*a*) any such agent to be resident in Mysore;
(*b*) any person not residing in Mysore to employ an agent residing in Mysore;
(*c*) the personal signature or presence of any applicant, opponent or other person.

Powers, etc., of Government.

Power for Government to make rules.

73. (1) The Government may make such rules as it thinks expedient, subject to the provisions of this Regulation—

(*a*) for regulating the practice of registration under this Regulation;
(*b*) for classifying goods for the puposes of designs;
(*c*) for making or requiring duplicates of specifications, drawings and other documents;
(*d*) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the Government thinks fit, of specifications, drawings and other documents;
(*e*) for securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents;
(*f*) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Regulation placed under the direction or control of the Controller or of the Government; and
(*g*) generally for the purpose of carrying into effect the provisions of this Regulation.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be published in the Official Gazette, and on such publication shall have effect as if enacted in this Regulation.

Offences.

Wrongful use of words "Patent Office."

74. If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor.

RECIPROCITY.

Reciprocal arrangements with British India and other States.

75. (1) If the Government of Mysore makes any arrangement with the United Kingdom or with the Government of British India or any other State for mutual protection of inventions or designs and declares, by a notification in the Official Gazette, the provisions of this section to be applicable in such cases, then any person who has applied for protection for any invention or design in the United Kingdom, British India or the other State shall be entitled to a patent for his invention or to registration of his design under this Regulation in priority to other applicants and the patent or registration shall have the same date as the date of the application in the United Kingdom, British India or the other State.

Provided that—

(*a*) The application is made in the case of a patent within twelve months and in the case of a design within four months, from the application for protection in the United Kingdom, British India or the other State.

(*b*) nothing in this section shall entitle the patentee or proprietor of the design to recover damages for infringements happening prior to the actual date on which, in the case of a patent his application is accepted, or in the case of a design the design is registered in Mysore.

(2) The patent granted for an invention or the registration of a design shall not be invalidated,—

(*a*) in the case of a patent, by reason only of the publication of a description of, or use of the invention, or

(*b*) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of, the design,

in Mysore during the period specified in this section as that within which the application may be made.

(3) The application for the grant of a patent or the registration of a design under this section must be made in the same manner as an ordinary application under this Regulation:

Provided that, in the case of a patent, if the application is not accepted within twelve months from the date of the application for protection in the United Kingdom, British India or the other State, the specification and the drawings (if any) supplied therewith shall be open to public inspection at the expiration of that period.

Savings and Repeal.

Saving for prerogative.

76. Nothing in this Regulation shall take away, abridge or prejudicially affect the prerogative of His Highness the Maharaja in relation to the granting of any letters patent or to the withholding of a grant thereof.

Repeal.

77. The Inventions and Designs Regulation, 1894, is hereby repealed.

Provided that this repeal shall not affect any application under the said Regulation pending at the commencement of this Regulation, and all proceedings on such application shall be continued as if this Regulation had not been passed.

Substitution of patents for rights under repealed Regulation.

78. (1) At any time within two years from the commencement of this Regulation, any person possessing an exclusive privilege under the Inventions and Designs Regulation, 1894, may, by request in writing left at the Patent Office and on payment of the prescribed fee, seek leave to convert his exclusive privilege under the said Regulation into a patent under this Regulation.

(2) Notice of any application under this section shall be sent to all persons appearing from the address book kept under the said Regulation to have any shares or interests in the exclusive privilege.

(3) Save as aforesaid, the procedure prescribed by section 17 in the case of applications under that section shall, so far as may be, apply to every application under this section.

(4) Every patent granted under this section shall be dated as of the date of the exclusive privilege for which it is substituted.

THE SCHEDULE.

(See Section 54.)

Fees.

	Rs.
On application for a patent ...	10
Before sealing a patent ...	30
Before the expiration of the 4th year from the date of the patent.	50
Before the expiration of the 5th year from the date of the patent.	50
Before the expiration of the 6th year from the date of the patent.	50
Before the expiration of the 7th year from the date of patent.	50
Before the expiration of the 8th year from the date of the patent.	50
Before the expiration of the 9th year from the date of the patent.	100
Before the expiration of the 10th year from the date of the patent.	100
Before the expiration of the 11th year from the date of the patent.	100
Before the expiration of the 12th year from the date of the patent.	100
Before the expiration of the 13th year from the date of the patent.	100
Provided that the fees for two or more years may be paid in advance.	
On application to extend term of a patent ...	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15.	100
On application for registration of a design ...	3

A. R. BANERJI,
Dewan.